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FISCAL IMPACT STATEMENT

LS 6471

BILL NUMBER: SB 104

NOTE PREPARED: Jan 5, 2010

BILL AMENDED:

SUBJECT: Prosecuting Attorneys Retirement Fund Issues.

FIRST AUTHOR: Sen. Kruse

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill:

- (1) defines "salary", for purposes of computing a retirement benefit, to include the total salary paid to a participant in the Prosecuting Attorneys Retirement Fund (PARF) by the state and by a county or counties;
- (1A) caps at \$5,000, for purposes of the total salary used to compute a retirement benefit, the additional amount paid to a chief deputy prosecuting attorney by a county or counties;
- (2) eliminates contributions for a participant with at least 22 years of creditable service;
- (3) for a participant who applies for a retirement benefit after November 30, 2011, bases the computation of the annual retirement benefit on the salary being paid for the office with the highest annual salary that the participant held before or at the time of the participant's separation from service. (Currently, the computation is based on the highest annual salary that was paid to the participant before separation from service.);
- (4) reduces from 0.25% to 0.10% per month the reduction factor for a retirement benefit computed for a participant who retires before 65 years of age;
- (5) provides a prorated retirement benefit for partial years of service;
- (6) makes changes to the fund's disability benefit by: (A) eliminating the minimum service required to receive a disability benefit; (B) redefining "disability"; and (C) increasing the salary percentages used to compute a disability benefit to equal the percentages used by the Judges' Retirement System for the same years of service;
- (7) increases the minimum annual survivor benefit from \$7,000 to \$12,000;
- (7A) provides that benefit increases paid in state fiscal years beginning after June 30, 2012, are equal to the percentage by which the salary being paid for the office with the highest salary that the participant held before or at the time of the participant's separation from service increases; and
- (8) increases the court administration fee from \$5 to \$7 for all courts except the Marion County Small Claims

Court, and directs that the additional amount be paid into the fund.

Effective Date: July 1, 2010.

Summary of NET State Impact: Expenditures will increase with added retirement and disability benefits for prosecuting attorneys. These new costs are offset by increasing the court administration fee from \$5 to \$7. The added revenue is initially deposited in the state General Fund. Twice a year, \$1.044 M is transferred from the state General Fund to the Prosecuting Attorneys Retirement Fund and nine other court-related funds. The statutory transfers from the state General Fund to PARF will occur in semi-annual installments, regardless of the level of new court administration fee revenue generated or new PARF funding requirements associated with the bill's pension provisions.

The following table shows the net effects on both the state General Fund and PARF *after all anticipated revenue* is generated by the Court Administration Fee increase. LSA anticipates that this will occur in FY 2013.

New Provisions	General Fund*	PARF*
Additional Court Administration Fee Revenue (Estimated)	\$2.09	
Statutory Transfer from General Fund to PARF	(\$2.08)	\$2.08
Additional PARF Annual Pension Costs (Estimated)		(\$2.12)
Net Effect	\$0.01	(\$0.04)
* Note: Money is shown in \$ millions		

The following table presents a summary of the new costs from these added benefits and revenues generated by increasing the court administration fee between FY 2011 and FY 2014. The revenue generated by this fee increase could take up to two years to reach its anticipated amount. This is explained in greater detail in the *Explanation of State Revenues* section.

Summary of Net Impact on State General Fund and PARF (in \$ Millions)					
	Effective	FY 2011	FY 2012	FY 2013	FY 2014
New Revenue - Court Admin Fee Increase	Jul 1, 2010	\$1.70	\$1.90	\$2.09	\$2.09
Added Benefits - Retired Prosecuting Attorneys	Dec 1, 2011		\$1.23	\$2.12	\$2.12
Net Effect on State General Fund and PARF *		\$1.70	\$0.67	(\$0.03)	(\$0.03)
* The state General Fund makes the first contribution to PARF on December 31, 2010 (FY 2011).					

PARF is financed through a combination of employee contributions from prosecuting attorneys and chief deputies and state General Fund appropriations. Any deficits that are created by the added expenditures from these new benefits and shortfalls in fee revenue would presumably be paid through new state General Fund appropriations.

Explanation of State Expenditures: The new expenditures for retirement and disability benefits are itemized in the following table.

Description	Increase in Unfunded Liability	Increase in Annual Funding	Increase in Annual Funding as % of Pay
(1) County Supplement included in Salary	\$533,200	\$66,200	0.2%
(1A) County Supplement capped at \$5,000 (no change)			
(2) Eliminate member contribution after 22 years of service	\$0	\$151,900	0.9%
(3) Post-Retirement Benefit Increases (date changed to November 30,2011 (one month earlier; no material impact) Also, it clarifies how the monthly benefit increases are determined, which is in line with how the fiscal estimates were made originally.	\$12,850,000	\$1,620,000	8.9%
(4) Reduces reduction factors for retirement before age 65	\$796,100	\$115,000	0.6%
(5) Proration of benefits for partial years	\$512,100	\$84,800	0.4%
(6 A) Eliminate minimum service requirement	(\$33,800)	\$6,700	0.04%
(6 B) Redefine Disability	(\$170,000)	\$42,100	0.2%
(6 C) Increase % used in computing disability benefits	\$38,500	\$15,000	0.1%
(7) Increases minimum death benefit from \$7,000 to \$12,000	\$26,900	\$13,600	0.1%
(7A) Changes the salary definition to the office with the highest salary held by the participant either before or at the time of separation of employment, but this is current practice (no material fiscal impact)			
TOTAL	\$14,553,000	\$2,115,300	

The funds affected are the state General Fund and PARF.

Explanation of State Revenues: *Summary-* This bill increases the court administration fee from the current \$5 to \$7 and transfers \$1.044 M semiannually from the state General Fund to a series of court-related funds and programs (99% of which is for the Prosecuting Attorneys Retirement Fund). The following table illustrates how the new revenue is estimated.

(8) Court Administration Fee Increase - The following table shows that an estimated \$2.08 M would be generated if \$2 is added to the court administration fee. This estimate is based on filings and dispositions between 2001 and 2006 and adjusted for persons not paying a fee because a case was dismissed, or because defendants either failed to pay or appear in court or had their fee waived because they were represented by pauper counsel.

New Revenue from \$2 Increase in Court Administration Fee.				
	Trial Courts	City and Town Courts	Total Revenue	% of Total
Felonies and Misdemeanors	\$102,168	\$44,130	\$146,298	7%
Infractions & Ordinance Violations	\$844,781	\$290,936	\$1,135,717	54%
Juvenile	\$29,408		\$29,408	1%
Civil Plenary and Tort	\$214,403	\$17,588	\$231,991	11%
Small Claims	\$397,531		\$397,531	19%
Domestic Relations	\$72,258		\$72,258	3%
Probate and Others	\$74,928	\$158	\$75,086	4%
Total New Revenue Statewide	\$1,735,477	\$352,812	\$2,088,289	100%

Note on Anticipated Revenue Delay: These added revenues from a court fee increase may take 12 to 18 months before they generate the full estimated revenue because of timing and reporting differences.

Timing differences occur because plaintiffs in civil cases pay the fee at the time of filing while defendants in criminal, juvenile, and infraction ordinance violations cases pay the fee after a court decides that a person is guilty and that the person is not indigent. It is estimated that fees from criminal, infractions, and ordinance violations cases generate over 60% of all revenue. If defendants pay within 30 to 120 days of when the fee was assessed, the delay can range between \$100,000 and \$300,000 for criminal and juvenile cases.

The reporting difference is because the state and local governments recognize revenue on a cash rather than an accrual basis. As a result, revenue received after a certain cutoff data for the end of a fiscal year is reported in the next fiscal year.

The following table shows the net effect on the state General Fund after the semiannual transfer of money from the state General Fund to the PARF.

Impact of Court Administration Fee Revenue Changes (in \$ Millions)				
	FY 2011	FY 2012	FY 2013	FY 2014
Increase in Court Administration Fee	\$1.70	\$1.90	\$2.09	\$2.09
Less: Annual Transfer to Court-Related Funds (over 99% of new revenue would be deposited in PARF)	\$1.04	\$2.09	\$2.09	\$2.09
Effect on State General Fund	\$0.66	(\$0.19)	\$0.00	\$0.00

Semiannual Transfer of Money from the State General Fund to PARF – Most of the new money generated by this fee increase will be deposited into a series of court-related funds. Under current law, \$9,277,023 is transferred to the Judges Retirement Fund and to eight other court-related funds every six months.

Under this proposal, an additional \$1.044 M would be transferred from the state General Fund twice each

year as shown in the following table. The Prosecuting Attorneys Retirement Fund would receive \$1.038 M every six months (or \$2.076 M annually) and the other funds would also receive small increases of less than \$1,019 or less.

Added expenditures for new retirement benefits would be drawn from the added revenue being deposited each year into PARF. If payouts for these added benefits are greater than the anticipated \$2.11 M (see *Explanation of State Expenditures*), then any excess spending would be paid from the state General Fund. In 2007, PARF had 20 persons receiving benefits, 206 active members and 308 terminated members with service.

Semiannual Transfer of \$1 M from State General Fund to Court-Related Funds and Programs						
		Current Law		Proposed		Added
		Pct. Dist	Semiannual	Pct. Dist.	Semiannual	
			\$9,277,023		\$10,321,152	\$1,044,129
1	Family Violence and Victim Assistance Fund	8.03%	744,945	7.22%	745,187	242
2	IN Judges' Retirement Fund	38.55%	3,576,292	34.66%	3,577,311	1,019
3	Law Enforcement Academy Building Fund	2.56%	237,492	2.31%	238,419	927
4	Law Enforcement Training Fund	10.27%	952,750	9.24%	953,674	924
5	Violent Crime Victims Comp. Fund	11.93%	1,106,749	10.73%	1,107,460	711
6	Motor Vehicle Highway Account	19.49%	1,808,092	17.52%	1,808,266	174
7	Fish and Wildlife Fund	0.25%	23,193	0.23%	23,739	546
8	IN Judicial Center Drug & Alcohol Fund	1.63%	151,215	1.47%	151,721	506
9	DNA Sample Processing Fund	7.29%	676,295	6.56%	677,068	773
10	Prosecuting Attorneys Retirement Fund			10.06%	1,038,308	1,038,308
		100%	\$9,277,023	100%	\$10,321,152	1,044,129

Explanation of Local Expenditures: The maximum county supplement to a county prosecutor is \$5,000, and about 60%-65% of counties participate. Counties which currently pay the supplement but do not pay Social Security and Medicare taxes are required by this bill to send these taxes to the state. This will add to county expenditures. An informal survey of county prosecutors by the Indiana Prosecuting Attorneys Council reveals that the practice of paying such taxes varies among the counties.

Explanation of Local Revenues:

State Agencies Affected: Public Employees' Retirement Fund as administrators of PARF; Indiana Prosecuting Attorneys Council.

Local Agencies Affected: Various counties.

Information Sources: Doug Todd of McCready & Keene, Inc., actuaries for PERF, 317-576-1508; Mark Goodpaster, Legislative Services Agency, 317-232-9852; Steve Johnson, Executive Director of the Indiana Prosecuting Attorneys Council, 317-232-1836.

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